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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,193	08/29/2001	Kenneth M. Riff	P0009618.00	8485
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MEDTRONIC, INC. 710 MEDTRONIC PARKWAY NE MINNEAPOLIS, MN 55432-9924			EXAMINER LE, LINH GIANG	
			ART UNIT 3626	PAPER NUMBER
			MAIL DATE 06/13/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/943,193	<b>Applicant(s)</b> RIFF ET AL.	
	<b>Examiner</b> MICHELLE LE	<b>Art Unit</b> 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8, 12, 13, 18-21, 32-34, 39 and 40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 12-13, 18-21, 32-34, 39-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### *Notice to Applicant*

1. This communication is in response to Response filed 12 March 2008. No claims have been amended. Claims 1-8, 12-13, 18-21, 32-34, 39-40 remain pending.

### ***Double Patenting***

2. The double patenting rejection of claims 1-7 in view of Application 10/828,545 remains. Applicant noted the double rejection in the 3/12/08 Response and agreed to fully address the matter later, if necessary.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-8, 12-13, 18-21, 32-34, 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (5,997,476) in view of Bahl (6,834,341).

5. As per claim 1, Brown teaches an internet-based method comprising the steps of:

providing a networked computing system including a database network site, a patient medical services delivery application program, and a communications channel establishing a data and services delivery path (Brown; Fig. 1 and Col.2, line 53 to Col. 3, line 37) ;

receiving in a substantially continuous manner at the database network site first data inputs uniquely representative of sensed physiologic information from a medical device configuration of a patient (Brown; Col. 4, line 64 – Col. 5, line 13); enabling the networked computing system to communicate with at least one web-enabled web-site and to receive web-site originated signals requesting access to first data inputs on the database network site and to services provided by the patient medical services delivery application program (Brown; Col. 4, lines 49-63);

Brown does not expressly teach:

monitoring the data and service delivery path to determine a user's access to the first data inputs on the database network site and access to the patient medical services delivery application program service, and determining a revenue for the user's access to the networked computing system based upon monitoring of data packages over the data and service delivery path.

However, this is well known in the art as evidenced by Bahl. In particular, Bahl teaches accounting for data packets and billing users based on how much bandwidth one has consumed (Bahl; Col. 18, lines 19-32). It would have been obvious to add this feature to Brown with the motivation of giving a user Internet access depending on what price they are willing to pay (Bahl; Col. 2, lines 26-35).

6. As per claim 2, Bahl teaches further including the step of providing said web-site and configuring said web-site with a user interface which includes a sign- in input to enable access to said database network site (Bahl; Col. 11, lines 15-30). It would have been obvious to add this feature to Brown with the motivation of giving a user Internet access depending on what price they are willing to pay (Bahl; Col. 2, lines 26-35).

7. As per claim 3, Brown teaches in which the receiving step includes receiving at least one signal carrying information representing sensed physiologic status within the patient from at least one medical device located on or at least partially in the patient's body (Brown; Col. 4, line 64 – Col. 5, line 13).

8. As per claim 4, Brown teaches the receiving step includes receiving signals carrying information representing actual physiologic phenomenon within the patient as sensed by at least one medical device located on or at least partially in the patient's body (Brown; Col. 4, line 64 – Col. 5, line 13).

9. As per claim 5, Brown teaches the receiving step includes receiving signals carrying information representing actual physiologic phenomenon within the patient as sensed by a plurality of medical devices located on or at least partially in the patient's body (Brown; Col. 4, line 64 – Col. 5, line 13).

10. As per claim 6, Bahl teaches the enabling step comprises providing a secure sign-in and validating an originator's security-related action prior to allowing access of the originator to the database information (Bahl; Col. 11, lines 15-30). It would have been obvious to add this feature to Brown with the motivation of giving a user Internet access depending on what price they are willing to pay (Bahl; Col. 2, lines 26-35).

11. As per claim 7, Brown teaches the first data inputs provides intermediate information to enable further production of data representations enabling subsequent actions (Brown; Fig. 1 and Col.2, line 53 to Col. 3, line 37).

12. Claim 8 repeats the limitations of claims 1-7 and the reasons for rejection are incorporated herein

13. Claims 12-13 repeat limitations of claims 1-7 and the reasons for rejection are incorporated herein.

14. Claim 18 repeats the limitations of claims 1-7 and the reasons for rejection are incorporated herein.

15. As per claim 19, Brown teaches the step of enabling includes initiating automatic software analysis of the first data inputs to determine whether any sensed physiologic activity is abnormal (Brown; Fig. 1 and Col.2, line 53 to Col. 3, line 37).

16. As per claim 20, Brown teaches the step of enabling includes initiating automatic software analysis of the first data inputs to determine actual values for any sensed physiologic activity (Brown; Fig. 1 and Col.2, line 53 to Col. 3, line 37).

17. As per claim 21, Brown teaches the step of enabling includes initiating automatic software analysis of the first data inputs to determine whether any sensed physiologic activity is indicative of a demonstrable or likely pattern of physiological activity (Brown; Fig. 1 and Col.2, line 53 to Col. 3, line 37).

18. Claims 32-34 and 39-40 repeat limitations recited in claims 1-7 and 19-21 and the reasons for rejection are incorporated herein.

### ***Response to Arguments***

19. Applicant's arguments with respect to the claims have been considered and a new reference has been applied as the previous Norris reference and the claimed invention, at the time the claimed invention was made, were owned by Medtronic.

***Conclusion***

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Linh-Giang Le whose telephone number is 571-272-8207. The examiner can normally be reached on 8 AM - 5PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Luke Gilligan can be reached on 571-272-3600. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LLe

/C Luke Gilligan/  
Supervisory Patent Examiner, Art Unit 3626